

December 8, 2016

Robert East  
1109 Westwicke Lane  
Lutherville, MD 21093

Re: East Property  
1109 Westwicke Lane  
Forest Conservation Variance  
Tracking # 02-16-2286

Dear Mr. East:

A request for a variance from the Baltimore County Code Article 33 Environmental Protection and Management, Title 6 Forest Conservation was received and processed by this Department. This request proposes to allow you to maintain a yard in the Forest Conservation Easement (FCE) located on your property.

The Director of the Department of Environmental Protection and Sustainability (DEPS) may grant a special variance to the Forest Conservation Law in accordance with criteria outlined in Section 33-6-116(d)(1) of the Code. There are six (6) criteria listed in Subsection 33-6-116(d) and (e) that shall be used to evaluate the variance request. One (1) of the criteria under Subsection 33-6-116(d) must be met, and all three (3) of the criteria under Subsection 33-6-116(e) must be met, in order to approve the variance.

The first criterion (Subsection 33-6-116(d)(1) of the Code) requires that the petitioner show the land in question cannot yield a reasonable return if the requirement from which the special variance is requested is imposed and will deprive the petitioner of the beneficial use of his or her property. We determined that your FCE was already in place before you purchased the property, therefore, the inability to mow the easement has not deprived you of the beneficial uses of your property and this criterion has not been met.

The second criterion (Subsection 33-6-116 (d) (2) of the Code) requires that the petitioner show that his/her plight is due to unique circumstances and not the general conditions of the neighborhood. Several other properties within the Westwicke subdivision have property that is constrained by Forest Buffer/Forest Conservation Easements, and your property is clearly similar to other lots in the neighborhood. For this reason, you have shown that your plight is not due to unique circumstances. As a result, this criterion has not been met.

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The third criterion (Subsection 33-6-116(d) (3) of the Code) requires that the petitioner show that the special variance requested will not alter the essential character of the neighborhood. Maintaining a small yard within the FCE will diminish the size of the forest stand within the FCE. However, a large portion of the property and subdivision is wooded and allowing the small portion of the FCE in question to be mowed will help to maintain the essential character of the neighborhood. As a result, we determined that mowing a portion of the conservation easement, will not alter the essential character of the neighborhood and this criterion has been met.

The fourth criterion (Subsection 33-6-116(e) (1) of the Code) requires that the granting of the special variance will not adversely affect water quality. A variance approval would only affect a portion of the easement and would leave all existing mature trees between the maintained yard and the nearest stream, maintaining a more than adequate buffer to protect water quality in the area. Therefore, we find that granting of the special variance will not adversely affect water quality, and that this criterion has been met.

The fifth criterion (Subsection 33-6-116(e) (2) of the Code) requires that the special variance request does not arise from a condition or circumstance that is the result of actions taken by the petitioner. Although you purchased the property after the creation of the FCE, the area in question had previous variance approval which had been submitted but not finalized. For this reason, we determined that the variance request does not arise from a condition or circumstance which is the result of actions taken by you, and this criterion has been met.

The sixth criterion (Subsection 33-6-116(e)(3) of the Code) requires that the Director of DEPS find that the special variance, as granted, would be consistent with the spirit and intent of Article 33 of the Baltimore County Code. We determined that maintaining a mowing area within the easement area would not affect the overall functionality of the FCE or water quality and would be consistent with the spirit and intent of Article 33 of the Baltimore County Code. Therefore, this criterion has been met.

Based upon our review, this Department finds that the required variance criteria have been met. Therefore, the requested variance is hereby approved, in accordance with Section 33-6-116 of the Baltimore County Code, with the following conditions:

1. This variance is limited in scope to continued use of the existing lawn. All other restrictions outlined in the Forest Conservation Easement Declaration of Protective Covenants, Conditions, and Restrictions are applicable to this property.
2. All canopy and mature trees must remain within the variance area. Any removal of trees must be authorized by this Department and may require planting of new trees.

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3. The new easement location from the previously approved variance in January 2, 1997, must be recorded in the Land Records by March 31, 2017.
4. The following note must appear on all future plans for the property: "A variance from the Baltimore County Forest Conservation Law was granted by the Baltimore County Department of Environmental Protection and Sustainability on December 8, 2016. The variance approved maintenance of understory vegetation within the Forest Conservation Easement."

It is the intent of this Department to approve this variance subject to the above conditions. Any changes to site layout may require submittal of revised plans and an amended variance request.

Please sign the statement and return a signed copy of this letter to this Department within 21 calendar days. Failure to return a signed copy may render this approval null and void, or may result in delays in the processing of plans for this project.

If you have any questions regarding this correspondence, please call Mr. Brian Lindley at (410) 887-3980.

Sincerely yours,

Vincent J. Gardina  
Director

VJG/bal

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I/we agree to the above conditions to bring my/our property into compliance with Baltimore County's Forest Conservation Law.

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Printed Name                      Date

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Signature                      Date

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Printed Name                      Date

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Signature                      Date